

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

V.

CRIMINAL NO. 1:24-CR-4-GHD-DAS

ANDREW MURPHY

DEFENDANT

ORDER DENYING MOTION TO CONDUCT FORENSIC EXAMINATION

On February 7, 2024, the defendant Andrew Murphy filed a Motion to Conduct Forensic Examination Upon Mobile Device. Docket 11. Under Federal Rule of Criminal Procedure 16(E), the defendant seeks to inspect and copy any data from his mobile device that is the subject of the indictment in this case. The United States of America has responded that the defendant's request is statutorily prohibited under 18 U.S.C. § 3509(m) which prohibits the reproduction of child pornography and mandates that it be kept in the care, custody, and control of either the Government or the court. Docket 13. The Government further stated its intention "to make all of the electronic data available to the defense for review" prior to the discovery deadline set for February 20, 2024.

Section (2)(A) specifically states "[n]otwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography [...], so long as the Government makes the property or material reasonably available to the defendant." 18 U.S.C. § 3509(m)(2)(A). The defendant, therefore, is not entitled to have a forensic examiner "'dump' the contents of the phone's hard drive" as requested. Further, there being no allegation that the Government has failed to "provide[] ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by

the defendant, his [...] attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial,” the motion is **DENIED**.

SO ORDERED, this the 27th day of February, 2024.

/s/ David A. Sanders
UNITED STATES MAGISTRATE JUDGE